

April 1, 2015

Green card holders can file for spouses, unmarried children

Q: *My mother was approved for an immigrant visa and will be moving to the U.S. soon. I'd like to immigrate too, but couldn't be added to her original filing. When can she start a filing for me? Does she have to be a citizen first?*

A: As a general rule, new immigrants to the U.S. do NOT need to become citizens before filing immigrant petitions. It seems to be a common misconception that people must wait to become citizens before filing – we see cases of spouses or parents waiting years to become citizens and file immigrant petitions for their husbands, wives and children, enduring separations from their loved ones in the meantime. However, this prolonged separation does not necessarily have to happen!

Once new immigrants receive green cards as lawful permanent residents (LPRs), they can file for spouses and unmarried children. An Affidavit of Support is required for an immigrant visa – to sign this, petitioners must be at least 18 years old and domiciled in the U.S. (Please note that petitioners do not necessarily need to meet the income requirement for the Affidavit of Support on their own – they should just be able to sign it and use a joint sponsor for the income if necessary).

So if you are unmarried, and your mother is able to sign the Affidavit of Support, your mother can file for you right away! If you have children under 21 years old, you can also add your children to this petition – all of the visa categories available for LPR petitioners allow for beneficiaries to take their children.

The only reason to delay filing until you become a citizen rather than an LPR is if the beneficiary of the petition is in a category of family relationship that is only open to U.S. citizen petitioners. These are married children, recently adopted children, parents, siblings or fiancé(e)s. These visa categories are only available for citizens.

Petitions filed by LPRs are all considered “family preference” categories rather than “immediate relative” categories. Family preference categories have limitations on the number of visas that can be issued each year and so there may be a waiting period of a few years or more. Immediate relative categories are not numerically limited and the waiting time may be shorter. Information on various immigrant visa classifications and waiting times can be found at travel.state.gov.

Should your mother choose to become a citizen at any point while the petition is pending, she should notify the National Visa Center (NVC) and send proof of citizenship. This will change

your visa category and wait time. However, until she becomes a citizen, there's no need to wait – she can file for you as an LPR!

You can find more information about how to travel to the U.S. on our website, www.kingston.usembassy.gov and the website of our authorized service provider at www.usvisa-info.com. Keep on top of Embassy news on our Facebook page, www.facebook.com/pages/US-Embassy-Jamaica and by following @USEmbassyJA on Twitter. We also answer general visa questions on our Facebook and Twitter pages.